

1 DAVID L. ANDERSON (CABN 149604)
2 United States Attorney

3 HALLIE HOFFMAN (CABN 210020)
4 Chief, Criminal Division

5 ALEXIS J. LOEB (CABN 269895)
6 Assistant United States Attorney

7 450 Golden Gate Avenue, Box 36055
8 San Francisco, California 94102-3495
9 Telephone: (415) 436-7168
10 FAX: (415) 436-7234
11 Alexis.loeb@usdoj.gov

12 Attorneys for United States of America

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 OAKLAND DIVISION

16 UNITED STATES OF AMERICA,) CASE NO. CR 19-326 JSW
17 Plaintiff,)
18 v.) UNITED STATES' SENTENCING
19 OSCAR MEDRANO,) MEMORANDUM
20 Defendant.)
21) Sentencing date: February 11, 2020
22) Hon. Jeffrey S. White
23)

24 In this prosecution for possession of methamphetamine with the intent to distribute and illegal
25 reentry following removal, the United States respectfully recommends that the Court sentence the
26 defendant, Oscar Medrano, to 60 months' imprisonment (the mandatory minimum sentence), four years
27 of supervised release (also the mandatory minimum), no fine, and a \$200 special assessment. The
28 defendant is not safety-valve eligible.

29 **BACKGROUND**

30 **I. Offense Conduct**

31 On June 2, 2019, officers from the Pittsburg Police Department responded to a residential
32 neighborhood in Pittsburg, where there had been a report of armed men fighting. PSR ¶ 6. They arrived
33 on the scene to find the defendant running from the area. *Id.* He threw a black object over a fence

1 before the police caught up with him. *Id.* The police then arrested Medrano and retrieved the black
 2 object, which turned out to be a latex glove concealing 151.5 grams of methamphetamine, over 2,000
 3 doses. *Id.*

4 The defendant is a citizen of Mexico. PSR p. 3. He was deported on October 14, 2015,
 5 following a 2011 conviction for inflicting corporal punishment (an aggravated felony), child cruelty,
 6 willful discharge of a firearm in a negligent manner, and being a felon in possession of a firearm, for
 7 which he received a six-year prison sentence. *Id.* ¶ 8, 41. The 2011 conviction occurred in connection
 8 with an incident where the defendant pistol-whipped and attempted to shoot his former girlfriend while
 9 she held the couple's one-year-old daughter. PSR ¶ 41. The defendant remained in Mexico until
 10 sometime in 2018. PSR ¶ 55.

11 **II. Procedural History**

12 Medrano was indicted on July 18, 2019 in a two-count indictment charging him with possession
 13 with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B)(viii), and
 14 illegal reentry following removal, in violation of 8 U.S.C. § 1326(a) and (b)(2).¹ He pled guilty pursuant
 15 to a Rule 11(c)(1)(B) plea agreement on November 26, 2019. In the plea agreement, the government
 16 agreed to recommend a sentence at the low end of the Guidelines, provided the defendant continued to
 17 accept responsibility. Plea Agreement ¶ 15 (Dkt. 17). Because of the mandatory minimum that applies
 18 to Count 1 (the violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B)(viii)), "the statutorily required
 19 minimum sentence shall be the guideline sentence." U.S.S.G. § 5G1.1.

20 **DISCUSSION**

21 **I. Sentencing Guidelines Calculation and Mandatory Minimum**

22 Probation and the parties agree that Medrano's total offense level is 22. PSR ¶ 32. The two
 23 counts are not grouped, pursuant to U.S.S.G. § 3D1.2.

24 The offense level for Count 1, possession with intent to distribute methamphetamine in violation
 25 of 21 U.S.C. § 841(a)(1), is 24, based on the quantity of methamphetamine (at least 50 but less than 200
 26 grams). No specific offense characteristics apply.

27
 28 ¹ 8 U.S.C. § 1326(b)(2) applies because Medrano was deported after committing an aggravated
 felony. It increases the maximum penalty from 10 years to 20 years.

1 The offense level for Count 2, illegal reentry in violation of 8 U.S.C. § 1326(a) and (b)(2), is 16:
2 a base offense level of 8 (U.S.S.G. § 2L1.2) and an eight-point enhancement because Medrano
3 committed a felony before he was deported for which the sentence imposed was at least two years
4 (U.S.S.G. § 2L1.2(b)(2)(B)).

5 Conducting the grouping analysis, Count 2's offense level (16) is 5-8 levels less serious than the
6 offense level for Count 1, so a total of 1.5 units apply, which corresponds to a one-level increase to the
7 adjusted grouped offense level, from 24 to 25. U.S.S.G. § 3D1.4. Subtracting three points for
8 acceptance of responsibility, the total offense level is therefore 22.

9 Medrano's criminal history category is II. PSR ¶ 42. His Guidelines range would be 46-57
10 months; however, because of the five-year mandatory minimum under 21 U.S.C. § 841(b)(1)(B), the
11 Guidelines sentence is 60 months. U.S.S.G. § 5G1.1.

12 Medrano is not safety-valve eligible because he has a prior three-point offense, and he has not
13 completed a safety-valve proffer. 18 U.S.C. § 3553(f)(1)(B), (5).

14 **II. Sentencing Recommendation**

15 The United States Sentencing Guidelines serve as "the starting point and initial benchmark" of
16 any sentencing process and are to be kept in mind throughout the process. *United States v. Carty*, 520
17 F.3d 984, 991 (9th Cir. 2008). A sentence of 60 months is sufficient, but not greater than necessary, to
18 achieve the goals described in 18 U.S.C. § 3553(a): to "reflect the seriousness of the offense, promote
19 respect for the law, and provide just punishment; to afford adequate deterrence; to protect the public;
20 and to provide the defendant with needed educational or vocational training, medical care, or other
21 correctional treatment." *Id.* (citing 18 U.S.C. § 3553(a)).

22 Medrano has now repeatedly engaged in dangerous behavior, both in the incident leading to his
23 2011 conviction, and again here (where he was in a fight with armed men in a residential neighborhood,
24 and then was found with 2,000 doses of methamphetamine on him). This is also not his first
25 methamphetamine-related conviction. PSR ¶ 40. While the government understands that Medrano has
26 family ties in the United States, it is regrettable that, after being deported and illegally returning to the
27 country, he chose to sell a dangerous drug. That said, a 60-month sentence is sufficient here in light of
28

1 factors including the defendant's relatively quick acceptance of responsibility and expressions of
2 remorse.

3 **CONCLUSION**

4 For the foregoing reasons, the government respectfully requests that the Court sentence Medrano
5 to 60 months' imprisonment, a four-year term of supervised release, no fine, and a \$200 special
6 assessment.

7 DATED: February 4, 2020

8 Respectfully submitted,

9 DAVID L. ANDERSON
10 United States Attorney

11 _____/s Alexis J. Loeb_____
12 ALEXIS J. LOEB
13 Assistant United States Attorney